

REMARKS

This Request for Reconsideration is offered in response to the Office Action of October 28, 2004.

It is respectfully submitted that this Request for Reconsideration will require neither a new search nor substantial reconsideration.

The Office Action rejected Claim 15 under 35 U.S.C. §103(a) as being obvious over the Bois reference (U.S. Patent No. 6,131,374) in view of the '215 Ausnit reference (U.S. Patent No. 3,746,215) or the '801 Ausnit reference (U.S. Patent No. 3,991,801).

At the outset, the Applicant respectfully but strenuously traverses the statement of the Office Action that it would have been obvious "to increase the length of the lateral webs 130 of Bois so that it could act as a pouring spout when inverted over the fastener 112 as shown by either of the Ausnit references". It is respectfully submitted that such a statement can be made only with the wisdom of hindsight gained after review of the Applicant's disclosure, which is clearly improper.

More specifically, the Bois reference, in referring to Figure 3, states that "the convex face preferably faces backwards" (col. 3, lines 34-36). Therefore, in view of the position of the closure means 100 in Figure 1 with respect to the completed bag, this would result in the "U-shaped backing piece 130" being on the opposite side of the zipper profiles from the interior of the bag. Merely lengthening element 130, as suggested by the Office Action, would result in an unwieldy crumpled mass of plastic film on the opposite side of zipper profiles from the interior of the bag (that is, in the space between "closure means 100" and "transverse heat seal 54", see the lower left hand corner of Figure 1). Moreover, such a configuration, even if implemented, would do nothing to shield the zipper profiles from the contents of the bag when being

dispensed. There is nothing in either the '215 Ausnit reference or the '801 Ausnit reference which would suggest such an unseemly configuration. The ' 215 Ausnit reference and the '801 Ausnit reference disclose the funnel-type material on the interior of the bag, so that, when extended, it protects the zipper flanges from being contaminated with the contents being dispensed.

Even if, somehow, the orientation of the "closure means 130" of the Bois reference were to be reversed, there would still be nothing to disclose lengthening the closure means 130.

Therefore, there is nothing in the prior art which would suggest the combination of prior art stated in the Office Action.

In view of the above, each of the claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to early issue.

Respectfully submitted,



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